

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
DOCKET NO. 3:10CR40-FDW-DSC**

**UNITED STATES OF AMERICA** )  
 )  
 **v.** )  
 )  
 **DELMOND CUNNINGHAM,** )  
 )  
 **Defendant.** )  
 \_\_\_\_\_ )

**ORDER**

**THIS MATTER** is before the Court on defense counsel Angela Parrott’s “Motion to Withdraw as Counsel” (document #20) filed February 17, 2011. The Court conducted a hearing on this matter on February 22, 2011.

Having fully considered the arguments, the record, and the applicable authority, the Court finds that there is insufficient basis for withdrawal by counsel for Defendant, as discussed below, and will **DENY** the Motion.

At the hearing, defense counsel stated that she filed this Motion at the request of Defendant. She stated that she could communicate with Defendant and that she believed that their relationship had not deteriorated such that she could not effectively represent him in this case. Defendant told the Court that he did not think that defense counsel was ineffective and in fact, thought she was an “awesome” attorney, but that he is “fighting for his life” and wants to ensure that he has the best representation possible.

The Court clarified the attorney-client relationship and explained to Defendant that there are certain decisions that must be made by him such as whether or not to accept a plea agreement or go to trial, and that there are other decisions that must be made by counsel such as identifying legal issues, deciding what motions to file, and what arguments to make to the Court. Counsel

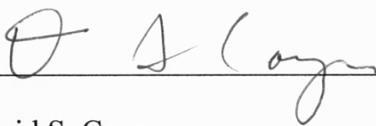
has advised Defendant of the Fourth Circuit's decision in U.S. v. Simmons, Case No. 08-4475 (February 16, 2011) and its potential impact on his status as an Armed Career Criminal. Defendant is understandably concerned about this issue. However, the Court advised Defendant that appointment of new counsel would not change his status under the law. The Court explained that an attorney is not always going to tell Defendant what he wants to hear. The role of an attorney is to defend him to the best of her abilities. The Court finds that there is nothing in the record to indicate that Ms. Parrott and co-counsel Erin Taylor would not provide competent and effective representation in this case.

Based on the above facts, the Court does not find that there is a sufficient basis to allow counsel for Defendant to withdraw and defense counsel's "Motion to Withdraw as Counsel" (document #20) is **DENIED**.

The Clerk is directed to send copies of this Order to counsel for the parties; and to the Honorable Frank D. Whitney.

**SO ORDERED.**

Signed: February 22, 2011

A handwritten signature in cursive script, appearing to read "D S Cayer", is written over a horizontal line.

David S. Cayer  
United States Magistrate Judge

